

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Digital Audio Broadcasting Systems and Their	)	MM Docket No. 99-325
Impact on the Terrestrial Radio Broadcast	)	
Service	)	

**COMMENTS OF FIRST BROADCASTING INVESTMENT PARTNERS, LLC**

First Broadcasting Investment Partners, LLC (“First Broadcasting”), by its attorneys, hereby submits these comments (“Comments”) in the above-captioned proceeding. These comments address several of the issues raised in the further notice of proposed rulemaking and notice of inquiry (“FNPRM”) in which the Federal Communications Commission (“FCC” or “Commission”) seeks comment on rule changes to implement in-band on-channel digital audio broadcasting (“IBOC”).<sup>1</sup>

**I. Introduction**

First Broadcasting is a limited liability company whose primary members include Alta Communications, one of the country’s most successful broadcast industry private equity funds, and First Broadcasting Investments, L.P., a seasoned broadcaster with substantial experience in improving stations and maximizing spectrum resources. First Broadcasting currently is the licensee of, or otherwise the ultimate controlling party of, over ten FM and AM radio stations. First Broadcasting often acquires an underperforming station and then, through application of its technical expertise, increases the station’s population coverage and improves its overall service

quality, thereby resulting in more efficient use of the station's spectrum. Based on this technical expertise and experience, First Broadcasting submits the following comments, limited to those sections of the FNPRM focused on the AM service.

**II. The Current Interim Authorization for AM IBOC Service Should be Extended to Permit Nighttime AM IBOC operation on a Blanket Basis by Those Stations Currently Authorized for Analog Nighttime Operation**

In its last report and order ("Report & Order") the Commission limited transmission of IBOC signals by AM stations to daytime hours only, even if an AM station had analog nighttime authority.<sup>2</sup> This limitation was intended to be temporary, pending further study.<sup>3</sup> First Broadcasting supports the National Association of Broadcasters ("NAB") recommendation for a blanket extension of the current interim authorization for digital IBOC service to permit nighttime digital AM broadcasts by those stations that currently hold authorizations for nighttime analog operation.<sup>4</sup> Such an extension would lead to significant public interest benefits with minimal, if any, public interest costs because the long term benefits gained from operation of AM stations with digital IBOC service in nighttime mode far exceeds the limited interference that may result. Further, issuance of a blanket authorization instead of requiring prior approval will eliminate inevitable delays associated with obtaining individual prior approvals, which ultimately will expedite the delivery of digital radio service to the public.

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<sup>1</sup> See Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Service, Docket No. 99-325, FCC 04-99, at ¶ 1 (rel. Apr. 20, 2004) ("FNPRM").

<sup>2</sup> See Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Service, 17 FCC Rcd 19990 (2002) (cited by FNPRM at ¶ 8).

<sup>3</sup> *Id.*

<sup>4</sup> Letter to Marlene H. Dortch, Secretary, FCC, from Jack N. Goodman, Senior Vice President & General Counsel, NAB (Mar. 5, 2004) ("NAB Letter").

### **III. Unexpected Instances of Interference Should be Resolved on a Case-By-Case Basis**

First Broadcasting also supports NAB's suggestion that any specific, actual interference to AM stations should be resolved by the FCC on a case-by-case basis.<sup>5</sup> As stated in the Report & Order, the Commission has clear authority to order immediate interference remedies, up to and including the suspension of the interfering AM station's IBOC nighttime operation.<sup>6</sup> Combining a case-by-case approach with this type of specific Commission enforcement authority enables the Commission to swiftly curb actual interference without unintentionally harming non-interfering stations whose operations could be unnecessarily limited by more sweeping general interference remedies.

### **IV. Interference Protection Should be Afforded Only to the NIF Contour**

Assuming that the Commission adopts the case-by-case approach suggested by NAB and endorsed by First Broadcasting, the Commission still must determine what contour of AM stations should be protected. First Broadcasting urges the Commission to clarify that interference protection will be afforded to a station's nighttime interference free ("NIF") contour only. Without making this clarification, some parties may wrongly assume that far more tenuous coverage, such as a station's skywave coverage, must be protected. Requiring protection of NIF contours instead of skywave coverage will dramatically increase the potential public interest benefits of AM IBOC operation with little to no cost. Specifically, limited interference to skywave AM listening is a small price to pay for the delivery of high quality IBOC sound to local listeners during the day and night. Today, thousands of radio stations—AM, FM, and even

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<sup>5</sup> NAB Letter at 1.

<sup>6</sup> FNPRM at ¶ 45.

satellite—that simply did not exist when skywave service originally was deemed necessary now fully serve communities distant from Class A AM stations. Ultimately, First Broadcasting believes that the relevance of that skywave service for the average radio listener is minimal and the benefit of new, digital service far outweighs the public service benefits of any lost skywave coverage.

Respectfully submitted,

**FIRST BROADCASTING INVESTMENT  
PARTNERS, LLC**

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June 16, 2004